

Sponsor: Town Council  
First Reading: March 9, 2020  
Second Reading: July 13, 2020

AN ORDINANCE TO REPEAL ARTICLE IV, TITLE 21 OF THE FELTON TOWN CODE AND ADOPT A NEW ARTICLE IV, TITLE 21, ENTITLED "AN ORDINANCE REGULATING THE KEEPING OF DOGS WITHIN THE TOWN OF FELTON, PROHIBITING DANGEROUS AND/OR NOISY DOGS AND AUTHORIZING THE IMPOUNDING AND DESTRUCTION OF DOGS, AND PROVIDING PENALTIES FOR VIOLATION THEREOF"

WHEREAS, Section 3.2.30 of the Charter of the Town of Felton authorizes the Town to "establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large and to authorize the destruction of the same; and to regulate the keeping of dogs within the town, and to provide for the registration and fees thereof";

WHEREAS, the Town Council has adopted an ordinance regulating the keeping of dogs in the Town of Felton; and

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety and welfare to repeal the existing ordinance and adopt a new ordinance to update the town's dog control regulations and clarify that Animal Control Officers employed by the State of Delaware or an independent contractor of the State of Delaware are primarily authorized to enforce provisions regulating dogs in the Town of Felton.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Felton, a majority thereof concurring in Council duly met, that Article IV, Title 21, is hereby deleted in its entirety and replaced with the following:

#### **ARTICLE IV – TITLE 21**

**AN ORDINANCE REGULATING THE KEEPING OF DOGS WITHIN THE TOWN OF FELTON, PROHIBITING DANGEROUS AND/OR NOISY DOGS AND AUTHORIZING THE IMPOUNDING AND DESTRUCTION OF DOGS, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.**

Section 1. – Definitions of terms used in this Ordinance, unless the context otherwise indicates.

- (a) "Animal Control Officer" means any individual employed by the State of Delaware or employed by an independent contractor of the State of Delaware for the purpose of enforcing dog control laws, rules, regulations, and ordinances.
- (b) "Dog" shall mean a dog or dog hybrid.
- (c) "Owner" shall mean any person or persons, firms, associations or corporations owning, keeping or harboring a dog.
- (d) "At Large" shall mean a dog off the premises of the owner and not under control of a human being by physical restraint such as a leash, cord, chain, rope or otherwise.

- (e) "Dangerous Dog" shall mean any dog which constitutes a physical threat to human beings or other animals by virtue of one unprovoked attack resulting in serious physical injury or property damage or two or more unprovoked attacks resulting in other physical injury or property damage. Evidence of a prior instance of a dog biting a human being, without provocation, shall be prima facie evidence that the dog is dangerous. A dangerous dog will also include any dog away from the property of the owner which constitutes a physical threat to human beings or other animals by showing its teeth, snarling, growling, or barking in a menacing manner. Dangerous dog shall also include any dog deemed to be dangerous pursuant to 16 Del. C. § 3071F.
- (f) "Noisy Dog" shall mean any dog that repeatedly or continuously barks, whines or howls so as to make a disturbance.

## Section 2. – Keeping of Dogs.

The owner of any dog shall at all times maintain the area wherein said dog is kept, along with the yard of the property at which the dog resides, in a clean and sanitary condition, free of unreasonable accumulations of refuse and dog waste.

## Section 3. – Custody of Dogs; Running at Large Prohibited.

- (a) The owner of any dog within the Town of Felton shall keep the same securely upon the owner's own premises or under the control of the said owner or some other person by means of leash, cord, chain, rope, fence or otherwise. No dog shall be permitted to run at large within the Town of Felton at any time.
- (b) The owner of any female dog in heat shall keep such dog at all times while in heat confined within an enclosure from which it cannot escape.
- (c) Any dog found to be in violation of this Section 3 may be impounded, and the owner shall be subject to all applicable civil penalties outlined herein.

## Section 4. – Enforcement; Emergency Situations.

Animal Control Officers, Police Officers, and Code Enforcement Officers of the Town of Felton are authorized to enforce all the provisions of this ordinance. When, in the judgment of an Animal Control Officer or a Police Officer, it is determined that any dog should be destroyed for humane reasons, or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to the notice and appeals requirements outlined herein.

## Section 5. – Notice to Owner and Redemption.

The owner of any impounded dog shall be notified of the impoundment by the Animal Control Officer or the Town as soon as reasonably possible, provided that the owner's contact information is known or reasonably ascertainable. The Animal Control Officer or the Town shall also notify the owner of the requirements for reclaiming the dog from impoundment.

## Section 6. – Disposition of Unclaimed or Infected Dogs.



The release, redemption, and disposition of any impounded dog, including any fees related to the impounding and housing of the dog, shall be pursuant to the policies and procedures of the animal control center where the dog is impounded. Any dog which appears to be suffering from rabies or affected with hydrophobia, mange or other infectious or dangerous disease shall not be released but may be forthwith destroyed.

#### Section 7. – Keeping of Dangerous Dogs.

It shall be unlawful for any owner to keep any dangerous dog within the Town of Felton, and any dog found to be dangerous shall be removed from the Town of Felton within seven (7) days of the issuance of an order to relocate the dog. Any owner who keeps such a dog after being notified by the Town of the requirement to relocate the dog shall be subject to civil penalties as hereinafter provided. Furthermore, the Town may pursue all legal means necessary to effectuate the removal of the dog.

#### Section 8. – Keeping of Noisy Dogs.

- (a) It shall be unlawful for any owner to keep any dog which by frequent, habitual or long-continued barking, whining or howling disturbs any person or neighborhood and such action is hereby declared to be a public nuisance and detrimental to the public health and welfare.
- (b) Any person or neighborhood so disturbed may advise the owner who keeps such dog. In the event that the nuisance is then not abated, any person so disturbed shall then give notice of the facts to the Police and the Police shall then visit the owner and advise such owner of said facts and of the provisions of this Ordinance and the penalties for violation.
- (c) Any owner who keeps such a dog and who is so notified as above described and who then fails to abate said nuisance after being notified by the Police, shall be subject to civil penalties as hereinafter provided.

#### Section 9. – Civil Penalties.

Any owner who shall violate any section of this Ordinance shall be responsible to pay civil penalties as follows:

First Offense:	\$25.00
Second Offense:	\$50.00
Third & Subsequent Offense:	\$100.00

Any civil penalties imposed under this section shall be in addition to any amounts due under Section 6. Each day of a continuing violation shall constitute a separate offense. Pursuant to 25 Del. C. § 2901(a)(1)(i), any unpaid civil penalty shall be added to the property tax bill of the owner. The Town may use all legal means available to collect any unpaid civil penalties.

Section 10. Appeals. Any owner who has been assessed a civil penalty under this ordinance or ordered to remove a dangerous dog from the Town shall, as part of the notice of civil penalty or removal order, be given notice of the right to appeal the civil penalty or removal

order within 72 hours of the notice. Appeals shall be submitted in writing to the Town Manager and shall be heard by the Town Council as soon as practical to determine whether a preponderance of the evidence exists of the alleged violations of the ordinance. Failure of the dog owner to file a timely appeal shall be considered the owner's admission of an ordinance violation.

Section 11. State Regulations. No person owning or having custody of any dog shall violate any laws, rules, or regulations of the State of Delaware applicable thereto. Such laws, rules, and regulations are included herein by reference. Where the provisions of rules and regulations of the State of Delaware are less restrictive than the provisions of this ordinance, the provisions of this ordinance shall govern.

Section 12. – Severability. If any section, paragraph, sentence or clause of this ordinance shall be determined, by any court of competent jurisdiction, to be unconstitutional, illegal, or unenforceable, the balance of this ordinance shall remain in full force and effect.

Section 13. – Effective Date. This ordinance shall not take effect until the complete text hereof has been posted at the Town Hall and at three other public places within the town for seven days from the date of its final adoption.

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#### Synopsis

This ordinance requires dog owners to maintain in a clean condition those areas where dogs reside, including the yard of the property. This ordinance defines and prohibits the running at large of dogs and authorizes Animal Control Officers, Police Officers, and Code Enforcement Officers to enforce the ordinance. The impounding and destruction of dogs is authorized by this ordinance under certain circumstances. This ordinance includes notice requirements and appeals procedures to challenge alleged violations of the ordinance. Dangerous dogs are defined and prohibited to be kept within the limits of the town. Noisy dogs are regulated by this ordinance, and this ordinance includes civil penalties.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Felton at a duly-noticed and convened meeting at which a quorum was present on July 13, 2020.

So Certifies:

Attest: Gracey Thompson  
Town Clerk

Jan C. [Signature]  
Mayor

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This shall certify that the title and synopsis of the foregoing ordinance was posted in three public places in the Town (including the Town Hall) on July 16, 2020.

7/13/2020  
Date

So Certifies:  
Gracey Thompson  
Town Clerk